

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

KEVIN M. KEMP,

Plaintiff,

vs.

NANCY A. BERRYHILL, acting Commissioner  
of Social Security Administration,

Defendant.

Case No. 2:15-cv-00706-GMN-GWF

**REPORT AND  
RECOMMENDATION**

This matter is before the Court on Plaintiff's failure to file a motion to remand. On June 29, 2016, the Court granted Plaintiff's Fourth Motion for Extension (ECF No. 30) to file his motion for remand and the Court advised Plaintiff that it would be the final extension. *See* ECF No. 31. Plaintiff had until July 29, 2016 to file his motion. *Id.* To date, Plaintiff has failed to file his motion to remand. Pursuant to Fed. R. Civ. P. 41(b), the Court may dismiss an action if the plaintiff fails to prosecute or comply with the rules or a court order. More than 6 months have elapsed since the deadline for Plaintiff to file his motion to remand. Accordingly,

**RECOMMENDATION**

**IT IS HEREBY RECOMMENDED** that this case be **dismissed**.

**NOTICE**

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the

1 objectionable issues waives the right to appeal the District Court's order and/or appeal factual  
2 issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991);  
3 *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

4 DATED this 16th day of February, 2017.

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7 GEORGE FOLEY, JR.  
United States Magistrate Judge  
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